

ORIGINAL

BEFORE THE
BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

SERGIO V. MONTERROSO
2515 East Princeton Street
Visalia, California 93292

and/or

4461 West Goshen Avenue, No. 129
Visalia, California 93292

Certified Public Accountant
Certificate No. 58907

Respondent.

Case No. AC-2001-20

**DEFAULT DECISION
AND ORDER**

Respondent Sergio V. Monterroso, having been served with the Accusation,
Statement to Respondent and Notice of Defense form as provided by sections 11503 and 11505
of the Government Code of the State of California, having failed to file a Notice of Defense
within the time allowed by section 11506 of said code, and the default of respondent having been
duly noted, the California State Board of Accountancy has determined that respondent has
waived his rights to a hearing to contest the merits of said Accusation; that respondent is in

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1 default, and that this Board will take action on the Accusation and evidence herein, without a
2 hearing, and makes the following findings of fact:

3 **FINDINGS OF FACT**

4 1. The Accusation was made and filed by Carol Sigmann in her official
5 capacity as the Executive Officer of the California State Board of Accountancy (hereinafter the
6 "Board").

7 **I.**

8 **LICENSE HISTORY**

9 2. On or about March 17, 1991, the Board issued Certified Public Accountant
10 certificate number CPA 58907 to SERGIO V. MONTERROSO (hereinafter "Respondent"). The
11 certificate is subject to renewal every two years pursuant to Business and Professions Code,
12 section 5070.6. The applicable renewal period for this certificate is February 1 through January
13 31 of even numbered years. The certificate was regularly renewed in an "active" category until
14 January 31, 1996. The certificate expired and was not valid during the period February 1, 1996,
15 through February 12, 1996, for the following:

- 16 (a) The renewal fee, required by the Business and
17 Professions Code section 5070.5, was not paid, and;
18 (b) declaration of compliance with continuing
19 education regulations was not submitted.

20 3. Said certificate was renewed under the provisions of the California Code
21 of Regulations, Title 16, section 87.1 ("reentry") effective February 13, 1996, upon receipt of the
22 renewal fee and declaration of compliance with continuing education requirements ("active").

23 4. The certificate expired and was not valid during the period February 1,
24 1998, through February 12, 1998, for the following:

- 25 (a) The renewal fee, required by the Business and
26 Professions Code section 5070.5, was not paid, and;
27 (b) declaration of compliance with continuing
28 education regulations was not submitted.

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5. Said certificate was renewed under the provisions of the California Code of Regulations, Title 16, section 87.1 ("reentry") effective February 13, 1998, upon receipt of the renewal fee and declaration of compliance with continuing education requirements ("active").

6. The certificate is currently in force and effect and expires subject to renewal on January 31, 2002.

II.

STATUTES AND REGULATIONS

7. Business and Professions Code section 5100, provides a licensee may be disciplined for the following:

- (h) Fiscal dishonesty or breach of fiduciary responsibility of any kind;
- (j) Embezzlement, theft, misappropriation of funds or property, or obtaining money, property, or other valuable consideration by fraudulent means or false pretenses.

8. Business and Professions Code section 5107 provides for recovery by the Board of all reasonable costs of investigation and prosecution of the case, including, but not limited to, attorneys' fees in specified disciplinary actions, including violations of Business and Professions Code section 5100 (h) and (j). A certified copy of the actual costs, or a good faith estimate of costs signed by the Executive Officer, constitute prima facie evidence of reasonable costs of investigation and prosecution of the case.

III.

GENERAL BACKGROUND

9. Respondent was a member of the Visalia Seventh-Day Adventist Church, 1310 South Woodland Drive, Visalia, California, and during the period 1986 through December, 1998, acted as the treasurer of the church. Respondent's status as a licensed Certified Public Accountant was a material factor in his selection as church treasurer. While the office of church treasure was essentially a volunteer position, nevertheless, by verbal agreement with church officials, Respondent received a stipend of \$300 per month for his services as church treasurer.

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10. During the period of approximately November, 1991, through December, 1997, while serving as church treasurer, Respondent took approximately \$860,241 of church funds for or on behalf of his own personal benefit. During the time period cited above, Respondent prepared and presented periodic financial reports to church officials that were false and misleading

11. The church funds were taken by Respondent primarily through his use of an unauthorized account, entitled the "Plant Fund." Respondent also took church funds directly from the church's primary bank account, known as the "Operating Account," as well as from the church's Money Market Account.

12. At all times Respondent took or obtained church funds for or on behalf of his personal use, Respondent acted without the authority, knowledge or approval of church officials.

IV.

VIOLATIONS

Business and Professions Code section 5100(h)
[Fiscal Dishonesty and Breach of Fiduciary Responsibility]

13. By reference paragraphs 9 through 12 are incorporated herein.

Respondent breached his fiduciary responsibility and violated Business and Professions Code section 5100(h), by taking church funds to his own personal benefit.

Business and Professions Code section 5100(j)
 [Embezzlement, theft, misappropriation of funds,
 obtaining money by fraudulent means or false pretenses]

14. By reference paragraphs 9 through 12 are incorporated herein. Respondent violated Business and Professions Code section 5100(j), by taking church funds for his own personal benefit, and preparing and presenting financial reports to church officials that were false and misleading.

15. Pursuant to the authority under Government Code section 11520, and based upon the evidence, the Board finds that the allegations and each of them contained in Accusation Number AC-2001-20 as to Respondent Sergio V. Monterroso are true.

1 16. As of May 3, 2001, the costs of investigation and enforcement incurred by
2 the Board for this case are \$7,180.32.

3 **DETERMINATION OF ISSUES**

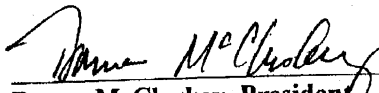
4 17. Based on the foregoing findings of fact, as set forth in paragraphs 1
5 through 14 above, Respondent has subjected his Certified Public Accountant certificate, number
6 CPA 58907, to discipline under Business and Professions Code sections 5100(h) and 5100(j).

7 **ORDER**

8 **WHEREFORE**, for the aforesaid causes, the California State Board of
9 Accountancy makes an order revoking Certified Public Accountant certificate number CPA
10 58907 issued to Respondent Sergio V. Monterroso.

11 This Decision shall become effective on the 28th day of June, 2001.

12 Dated and signed this 29 day of May, 2001.

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16 **Donna McCluskey, President**
17 California Board of Accountancy
18 Department of Consumer Affairs
19 State of California
20 Complainant
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6 Attorneys for Complainant
7

8 BEFORE THE
BOARD OF ACCOUNTANCY
9 DEPARTMENT OF CONSUMER AFFAIRS
10 STATE OF CALIFORNIA

11 In the Matter of the Accusation Against and
Petition to Revoke License Against:

Case No. AC-2001-20

A C C U S A T I O N

12 SERGIO V. MONTERROSO
13 2515 East Princeton Street
Visalia, California 93292

14 and/or

15 4461 West Goshen Avenue, No. 129
16 Visalia, California 93292

17 Certified Public Accountant
Certificate No. 58907

18 Respondent.
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20 CAROL SIGMANN alleges:

21 1. Complainant, Carol Sigmann, is the Executive Officer of the California
22 State Board of Accountancy (hereinafter the "Board") and makes this Accusation solely in her
23 official capacity.

24 **I.**

25 **LICENSE HISTORY**

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19 of Regulations, Title 16, section 87.1 ("reentry") effective February 13, 1998, upon receipt of the
20 renewal fee and declaration of compliance with continuing education requirements ("active").

21 6. The certificate is currently in force and effect and expires subject to
22 renewal on January 31, 2002.

23 II.

24 STATUTES AND REGULATIONS

25 7. Business and Professions Code section 5100, provides a licensee may be
26 disciplined for the following:

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1 IV.

2 Violations

3 **Business and Professions Code section 5100(h)**
4 [Fiscal Dishonesty and Breach of Fiduciary Responsibility]

5 13. By reference paragraphs 9 through 12 are incorporated herein. Respondent
6 breached his fiduciary responsibility and violated Business and Professions Code section
7 5100(h), by taking church funds to his own personal benefit.

8 **Business and Professions Code section 5100(j)**
9 [Embezzlement, theft, misappropriation of funds,
obtaining money by fraudulent means or false pretenses]

10 14. By reference paragraphs 9 through 12 are incorporated herein. Respondent
11 violated Business and Professions Code section 5100(j), by taking church funds for his own
12 personal benefit, and preparing and presenting financial reports to church officials that were false
13 and misleading.

14 V.

15 Prayer

16 WHEREFORE, the Complainant requests that a hearing be held on the matters
17 herein alleged, and that following said hearing, the Board issue a decision:

18 1. Revoking, suspending or otherwise imposing discipline upon Certified
19 Public Accountant number CPA 58907 heretofore issued to respondent SERGIO V.
20 MONTERROSO;

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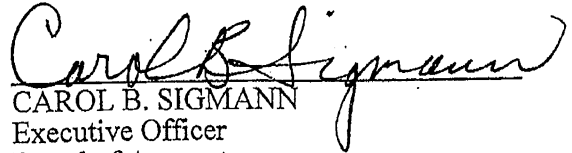
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2. Awarding the Board costs as provided by statute; and,
3. Taking such other and further action as the Board deems proper.

Dated: 3/21/01



CAROL B. SIGMANN
Executive Officer
Board of Accountancy
Department of Consumer Affairs
State of California
Complainant

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2Accusation.wpt 9/28/00
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